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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/503,387	02/14/2000	Samantha J. Busfield	MBIO99-057CP2M	6531

7590 05/07/2003

MILLENNIUM PHARMACEUTICALS INC
INTELLECTUAL PROPERTY GROUP
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CAMBRIDGE, MA 02139

EXAMINER

HUYNH, PHUONG N

ART UNIT	PAPER NUMBER
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1644

DATE MAILED: 05/07/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/503,387

Applicant(s)

BUSFIELD ET AL.

Examiner

Phuong Huynh

Art Unit

1644

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED _____ FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on 17 April 2003. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below).
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s) _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 26-29, 33-35, 53, 65-70, 75-77 and 87-90.

Claim(s) objected to: 41-43, 74, 78 and 79.

Claim(s) rejected: 24, 25, 36-40, 44-47, 54-64, 71-73 and 80-86.

Claim(s) withdrawn from consideration None.

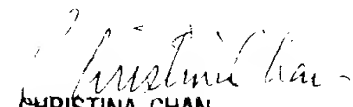
8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Continuation of 2. NOTE:

The proposed amendment to claim 36 "wherein said antibody represents at least 70% of total antibodies in the antibody composition" raises the issue of 35 USC 112 second paragraph because the preamble of claim 36 recites a substantially purified antibody or a fragment thereof and not a composition.

Continuation of 5. does NOT place the application in condition for allowance because:

It is noted that claim 37 still recites the antibody ... wherein the extracellular domain "comprises" amino acid residues 21 to 269 of SEQ ID NO: 3. Claim 39 still recites the antibody ... wherein the immunoglobulin-like domain comprises amino acid residues 48 to 88 or 134 to 180 of SEQ ID NO: 3. The term "comprises" is open-ended. It expands the extracellular domain or the immunoglobulin-like domain of the amino acid sequence of SEQ ID NO: 3 to include additional amino acids at either or both ends in addition to the specific amino acid residues which already recited in SEQ ID NO: 3. There is insufficient guidance as to the undisclosed amino acid to be added to the immunoglobulin-like domain or extracellular domain and whether the antibody would still bind to said domain having extra undisclosed amino acid residues. Applicants' arguments have been fully considered but not found convincing for the same reasons set forth in paper 19.


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